

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 11-1562

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:30 p.m., September 12, 2011, on the application of **BRITTANIE A. DAVIDSON** ("Applicant"). The Applicant is requesting a variance of the required 100-foot setback from a state highway to 62 feet to construct a 24' x 24' garage addition. The property is located on 5625 Marlan Drive, Trappe, Maryland 21673, adjacent to Maryland Route 565 (Old Trappe Road), and is in the Agricultural Conservation (AC) zone. It is owned by the Applicant. The request is made in accordance with Chapter 190 Zoning, Article V, §190-114 B (2) and Article IX, §190-182 of the Talbot County Code ("Code").

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman; Phillip Jones, Vice Chairman; Rush Moody; Betty Crothers; and Hilary Spence. Glenn D. Klakring was the attorney for the Board of Appeals.

It was noted for the record that all of the members of the Board had visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for variance with Attachment A.
2. Copy of a portion of the Talbot County tax map with the property highlighted.
3. Appeals Notice of Public Hearing.
4. Certificate of publication of the Notice of Public Hearing from the Star-Democrat.
5. Notice of hearing with a list of nearby property owners attached.
6. Copy of variance requirements from the Code with the Applicant's response to each applicable requirement.
7. Staff memorandum.

8. Sign maintenance agreement.
9. Site plans.
10. Elevation and floor plans.
11. Letter of authorization.
12. Independent Disclosure and Acknowledgement Form.
13. Aerial photograph.
14. State Highway Administration letter dated August 24, 2011.

The Applicant wishes to construct a 24' x 24' addition to an existing garage at her residence. The existing garage is 55.6 feet from Old Trappe Road at its closest point. The proposed addition to the garage will be 62 feet from Old Trappe Road.

The Staff Report states that the lot was created as part of a 1991 subdivision. At that time the lot was in the A-2 zone. The required setback from a state highway was 50 feet. A former owner constructed the existing single-family residence and garage. The County rezoned the lot to its current AC zone and it is now subject to a 100-foot setback from the state highway.

Donnie Dulin, Dulin Builders, Inc., 5553 Marlan Drive, Trappe, Maryland 21673, testified in support of the application. He said that the Applicant purchased the property in 2008.

There is an existing driveway on the property from Marlan Drive and a secondary access from Old Trappe Road. The State Highway Administration letter of August 24, 2011, states that the access to Old Trappe Road is not an approved access and must be removed. The State Highway Administration does not object to the variance request subject to removal of the access. Mr. Dulin stated that the Applicant will discontinue any possible vehicular use of the access by removing the culvert in the ditch next to Old Trappe Road.

The Applicant, Brittanie Davidson, and William Collier also appeared in support of the application. No one appeared in opposition to the application.

There being no further evidence the Board considered the application.

After some discussion and upon motion duly made and seconded, the Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. Certain unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that a literal enforcement of the provisions of the Code would result in practical difficulty or unreasonable hardship in enabling the Applicants to develop the property. The lot is a pie-shaped corner lot with two road frontages. The frontage on Marlin Drive is about 60 feet long and the frontage (which is actually the side of the property) on Old Trappe Road is almost 500 feet long. The existing garage is entirely within the 100-foot setback and any enlargement requires a variance. The proposed addition is away from neighboring residential lots in the subdivision.
3. The granting of the variance is not based upon circumstances which are self-created or self imposed.
4. Greater profitability or lack of knowledge of the restrictions was not considered as sufficient cause for the variance.
5. The granting of the variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties.
6. The variance does not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE
TALBOT COUNTY BOARD OF APPEALS,


RESOLVED, that the Applicant, **BRITTANIE A. DAVIDSON** (Appeal No. 11-1562) is **GRANTED** the requested variance consistent with the evidence provided the Board of Appeals. The variance is subject to the following conditions

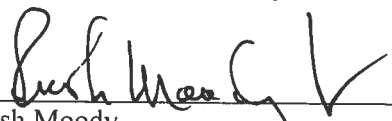
1. The Applicants shall make application to and follow all of the rules, procedures, and construction timelines as outlined by the Department of Permits and Inspections regarding new construction.
2. The Applicants shall discontinue use of the unauthorized State Highway access and remove the culvert permitting said access.
3. The Applicants shall commence construction on the proposed improvements within eighteen months from the date of this decision.

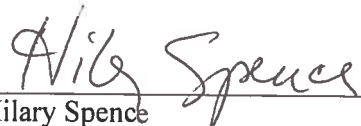
The vote of the Board was five to zero to grant the variance.

GIVEN OVER OUR HANDS, this 7th day of October, 2011.

TALBOT COUNTY BOARD OF APPEALS


Paul Shortall, Jr., Chairman


Rush Moody


Hilary Spence


Phillip Jones, Vice Chairman


Betty Crothers